

Senate Bill 524

By: Senators Cowser of the 46th and Heath of the 31st

A BILL TO BE ENTITLED  
AN ACT

To amend various titles of the Official Code of Georgia Annotated, so as to establish a community supervision division of the Department of Corrections which will be responsible for supervising probationers, parolees, and persons conditionally released; to provide for a director of the division; to reassign various functions from the State Board of Pardons and Paroles to the new division; to provide for transition to the new division; to reorganize probation officers and parole officers into community supervision officers; to provide for definitions; to enlarge the Board of Corrections to include the chairman of the State Board of Pardons and Paroles; to change provisions in the "State-wide Probation Act" and provisions regarding the State Board of Pardons and Paroles; to provide for conformity; to amend the Official Code of Georgia Annotated for purposes of conformity and to correct cross-references; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**

COMMUNITY SUPERVISION

**SECTION 1-1.**

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by adding a new chapter to read as follows:

"CHAPTER 9A

ARTICLE 1

42-9A-1.

As used in this chapter, the term:

(1) 'Board' means the State Board of Pardons and Paroles.

(2) 'Community supervision officer' or 'officer' means an individual who supervises persons serving probated sentences under the department or persons released on parole or conditional release by the board or who provides both types of supervision.

(3) 'Department' means the Department of Corrections.

(4) 'Director' means the director of community supervision.

(5) 'Division' means the Division of Community Supervision of the department.

42-9A-2.

(a) There is created the position of director of community supervision. The director shall be nominated by the Governor and approved by the Board of Corrections. The director shall be a deputy commissioner in the department and shall report to the commissioner.

(b) The director shall be the chief administrative officer of the division and, subject to policies set by the department, shall supervise, direct, account for, organize, plan, administer, and execute the duties vested with the division in this chapter and Chapters 8 and 9 of this title.

(c) It shall be the duty of the Board of Corrections to promulgate rules and regulations necessary to effectuate the purposes of this chapter.

42-9A-3.

(a) It shall be the duty of the director to supervise and direct the work of community supervision officers. The department shall keep accurate files and records on all probation, parole, and conditional release cases and persons on probation, parole, and conditional release.

(b) All reports, files, records, and papers of whatever kind relative to the state-wide probation system and persons released on parole or conditional release are declared to be confidential and shall be available only to the probation system officials, parole officials, and board members, and to the judge handling a probation case and shall not be available to any other person, institution, or agency without the express written consent of the probation or parole unit which originated or accumulated such documents. Such records shall not be subject to process of subpoena. However, the commissioner may by written order declassify any such records.

42-9A-4.

(a) The department shall employ community supervision officers and their compensation shall be set by the State Personnel Board and the State Personnel Administration. Community supervision officers shall be allowed travel and other expenses as are other state employees.

(b)(1) Except as provided in subsections (c) and (d) of this Code section, no community supervision officer, during his or her employment as such, shall engage in any other business or profession or hold any other public office which business, profession, or office conflicts with his or her official duties as a community supervision officer; nor shall he or she serve as a representative of any political party or any executive committee or other governing body thereof or as an executive officer or employee of any political committee, organization, or association; nor shall he or she be engaged on the behalf of any candidate for public office in the solicitation of votes or otherwise become a candidate for public office, without resigning from the division or from employment by the division.

(2) No community supervision officer shall own, operate, have any financial interest in, be an instructor at, or be employed by any private entity which provides drug or alcohol education services or offers a DUI Alcohol or Drug Use Risk Reduction Program certified by the Department of Driver Services.

(3) No community supervision officer shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk Reduction Program which a probationer may or shall attend. This paragraph shall not prohibit any community supervision officer from furnishing any probationer, upon request, the names of certified DUI Alcohol or Drug Use Risk Reduction Programs. Any community supervision officer violating this paragraph shall be guilty of a misdemeanor.

(c) Except as provided by subsection (d) of this Code section, a community service officer shall not be required to resign from employment by the division if he or she becomes a candidate for a public office of a county, school district, or municipality which does not require full-time service or accepts appointment to such an office.

(d) A community supervision officer shall be required to resign from employment by the division if he or she becomes a candidate for the General Assembly or becomes a candidate for or accepts appointment to a public office which requires full-time service.

42-9A-5.

(a) In order for a person to be a community supervision officer, he or she shall be at least 21 years of age at the time of appointment and have completed a standard two-year college course. The qualifications provided in this Code section shall be the minimum qualifications and the department is authorized to prescribe such additional and higher educational qualifications from time to time as it deems desirable, but not to exceed a four-year standard college course.

(b) Each community supervision officer shall give bond in such amount as may be fixed by the department payable to the department for the use of the person or persons damaged

by his or her misfeasance or malfeasance and conditioned on the faithful performance of his or her duties. The cost of the bond shall be paid by the department; provided, however, that the bond may be procured, either by the department or by the Department of Administrative Services, under a master policy or on a group blanket coverage basis, where only the number of positions in each judicial circuit and the amount of coverage for each position are listed in a schedule attached to the bond; and in such case each individual shall be fully bonded and bound as principal, together with the surety, by virtue of his or her holding the position or performing the duties of community supervision officer in the circuit or circuits, and his or her individual signature shall not be necessary for such bond to be valid in accordance with all the laws of this state. The bond or bonds shall be made payable to the department.

42-9A-6.

A community supervision officer leaving the service of the division under honorable conditions who has accumulated 20 or more years of service with the division or its predecessor department as a community supervision officer shall be entitled as part of such employee's compensation to retain his or her division issued badge. A community supervision officer employed with the division who is killed in the line of duty shall be entitled to have his or her division issued badge given to a surviving family member. Where a community supervision officer leaves the service of the division due to a disability that arose in the line of duty and such disability prevents the community supervision officer from further serving as a peace officer, then such disabled community supervision officer shall be entitled to retain his or her division issued badge regardless of the community supervision officer's number of years of service with the division or its predecessor department. The department shall be authorized to promulgate rules and regulations for the implementation of this Code section.

42-9A-7.

(a) No community supervision officer shall collect or disburse any funds whatsoever, except by written order of the court or the board. It shall be the duty of such community supervision officer to transmit a copy of such order to the department not later than 15 days after it has been issued by the court or the board. No community supervision officer shall be directed to collect any funds other than funds directed to be paid as the result of a criminal proceeding. Every community supervision officer who collects or disburses any funds whatsoever shall faithfully keep the records of accounts as are required by the department, which records shall be subject to inspection by the department at any time. In

every instance where a bank account is required, it shall be kept in the name of the 'State Probation Office' or 'State Parole Office,' as applicable.

(b) Community supervision officers shall aid parolees and probationers in securing employment.

42-9A-8.

(a) The department shall make periodic audits of each community supervision officer who, by virtue of his or her duties, has any moneys, fines, court costs, property, or other funds coming into his or her control or possession or being disbursed by him or her. The department shall keep a permanent record of the audit of each community supervision officer's accounts on file. It shall be the duty of the employee of the department conducting the audit to notify the department and the board in writing of any discrepancy of an illegal nature that might result in prosecution. The department shall have the right to interview and make inquiry of certain selected payors or recipients of funds, as it may choose, without notifying the community supervision officer, to carry out the purposes of the audit. The employee who conducts the audit shall be required to give bond in such amount as may be set by the department, in the same manner and for the same purposes as provided under Code Section 42-9A-5 for the bonds of community probation supervisors. The bond shall bind the employee and his or her surety in the performance of the employee's duties.

(b) Any overpayment of fines, restitutions, or other moneys owed as a condition of probation or parole shall not be refunded to the payor if the amount of such overpayment is less than \$5.00.

42-9A-9.

(a) On July 1, 2010, the department shall receive custody of the state owned real property in the custody of the board on June 30, 2010, which pertains to the functions transferred to the department relative to parole supervision.

(b) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2010, by the board which relate to the functions transferred to the department shall continue to exist; and none of these rights, privileges, entitlements, and duties is impaired or diminished by reason of the transfer of the functions to the department. In all such instances, the department shall be substituted for the board, and the department shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(c) All persons employed by the board in capacities which relate to the functions transferred to the department on June 30, 2010, shall, on July 1, 2010, become employees of the department in similar capacities, as determined by the commissioner of the

department. Such employees shall be subject to the employment practices and policies of the department on and after July 1, 2010, but the compensation and benefits of such transferred employees shall not be reduced solely as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Personnel Administration and who are transferred to the department shall retain all existing rights under the State Personnel Administration. Accrued leave possessed by such employees on June 30, 2010, shall be retained by such employees as employees of the department.

42-9A-10.

(a) Any provisions of law to the contrary notwithstanding, any person employed by the department as a probation officer on June 30, 2010, shall continue in such position but shall be administratively assigned to the division to serve as a community supervision officer; provided, however, that on July 1, 2012, such person shall become permanently employed by the division as a community supervision officer.

(b) Any provisions of law to the contrary notwithstanding, any person employed by the Board of Pardons and Paroles as a parole officer on June 30, 2010, shall continue in such position but shall be administratively assigned to the division to serve as a community supervision officer; provided, however, that on July 1, 2012, such person shall become permanently employed by the division as a community supervision officer.

(c) This Code section shall be automatically repealed on July 1, 2010, if an Act becomes law on such date amending Title 47 so as to preserve the specific retirement benefits allowed for probation officers and parole officers.

## ARTICLE 2

42-9A-20.

For purposes of probation supervision, the department may assign one community supervision officer to each judicial circuit in this state or, for purposes of assignment, may consolidate two or more judicial circuits and assign one community supervision officer thereto. In the event the department determines that more than one community supervision officer is needed for a particular circuit, additional community supervision officers may be assigned to the circuit. The department shall be authorized to direct any community supervision officer to assist any other community supervision officer wherever assigned. In the event that more than one community supervision officer is assigned to the same office or to the same court division within a particular judicial circuit, the department shall designate one of the community supervision officers to be the chief community supervision

officer. Community supervision officers shall be assigned among the respective judicial circuits based generally on the relative number of persons on probation in each circuit. Community supervision officers shall supervise and counsel probationers in the judicial circuit to which they are assigned. Each community supervision officer shall perform the duties prescribed in this chapter and such duties as are prescribed by the department and shall keep such records and files and make such reports as are required of him or her.

42-9A-21.

With respect to probation cases, it shall be the duty of a community supervision officer to investigate all cases referred to him or her by the court and to make findings and report thereon in writing to the court with his or her recommendation. The superior court may require, before imposition of sentence, a presentence investigation and written report in each felony case in which the accused has entered a plea of guilty or nolo contendere or has been convicted. The community supervision officer shall cause to be delivered to each probationer under his or her supervision a certified copy of the terms of probation and any change or modification thereof and shall cause such probationer to be instructed regarding the same. The community supervision officer shall keep informed concerning the conduct, habits, associates, employment, recreation, and whereabouts of the probationer by visits, by requiring reports, or in other ways. The community supervision officer shall make such reports in writing or otherwise as the court may require. The community supervision officer shall use all practicable and proper methods to aid and encourage probationers and to bring about improvements in their conduct and condition. The community supervision officer shall keep records on each probationer referred to him or her.

42-9A-22.

(a) When a convicted person is committed to an institution under the jurisdiction of the department, any presentence or post-sentence investigation or psychological evaluation compiled by a community supervision officer shall be forwarded to any office designated by the commissioner. Accompanying this document or evaluation will be the case history form and the criminal history sheets from the Federal Bureau of Investigation or the Georgia Crime Information Center, if available, unless any such information has previously been sent to the department pursuant to Code Section 42-5-50. A copy of these same documents shall be made available to the board. A copy of one or more of these documents, based on need, may be forwarded to another institution to which the convicted person may be committed.

(b) The prison or institution receiving the documents referenced in subsection (a) of this Code section shall maintain the confidentiality of the documents and the information

contained therein and shall not send them or release them or reveal them to any other person, institution, or agency without the express consent of the probation unit which originated or accumulated the documents.

42-9A-23.

In any county where the chief judge of the superior court, state court, municipal court, probate court, or magistrate court has provided for probation services for such court through agreement with a private corporation, enterprise, or agency or has established a county or municipal probation system for such court pursuant to Code Section 42-8-100, the provisions of this chapter relating to probation supervision services shall not apply to defendants sentenced in any such court.

42-9A-24.

The department may provide office space and clerical help for the division wherever needed. The counties of this state shall cooperate in this respect and, wherever possible, shall furnish office space if needed.

### ARTICLE 3

42-9A-30.

(a) For purposes of parole supervision, community supervision officers shall have the function and responsibility of supervising all parolees or conditional releasees by the board. Community supervision officers shall have the responsibility of notifying the board of any alleged violation of the conditions of parole or conditional release and making such investigations as may be necessary with reference to such violations. Any community supervision officer, when he or she has reasonable ground to believe that a parolee or conditional releasee has violated the terms or conditions of his or her parole or conditional release in a material respect, shall notify the board or some member thereof; and proceedings shall thereupon be had as provided in Code Section 42-9-48.

(b) The amount of the monthly parole supervision fee that the board may require the payment of as a condition of parole or conditional release shall be set by rule of the board and shall be uniform state wide. Such fees shall be collected by the community supervision officers to be paid into the general fund of the state treasury.

42-9A-31.

The department shall be authorized to maintain and operate or to enter into memoranda of agreement or other written documents evidencing contracts with other state agencies,



persons, or any other entities for transitional or intermediate or other services or for programs deemed by the board to be necessary for parolees or conditional releasees from imprisonment by order of the board."

## PART II

### BOARD OF CORRECTIONS

#### SECTION 2-1.

Said Title 42 is further amended by revising subsection (a) of Code Section 42-2-2, relating to members of the Board of Corrections, as follows:

~~"(a) On and after July 1, 1983, the~~ The board shall consist of one member from each congressional district in the state, the chairman of the State Board of Pardons and Paroles, and five additional members from the state at large. All members, except the chairman of the State Board of Pardons and Paroles, shall be appointed by the Governor, subject to confirmation by the Senate. ~~The initial terms of members shall be as follows: two members representative of congressional districts and one at-large member shall be appointed for a term ending July 1, 1984; two members representative of congressional districts and one at-large member shall be appointed for a term ending July 1, 1985; two members representative of congressional districts and one at-large member shall be appointed for a term ending July 1, 1986; two members representative of congressional districts and one at-large member shall be appointed for a term ending July 1, 1987; and two members representative of congressional districts and one at-large member shall be appointed for a term ending July 1, 1988. Thereafter, all~~ All members appointed to the board by the Governor shall be appointed for terms of five years and until their successors are appointed and qualified. In the event of a vacancy during the term of any member by reason of death, resignation, or otherwise, the appointment of a successor by the Governor shall be for the remainder of the unexpired term of such member. The chairman of the State Board of Pardons and Paroles shall serve on the board during his or her year as chairman of the State Board of Pardons and such post on the board shall rotate as the chairman rotates serving as chairman, but such post shall always be actively filled by the chairman of the State Board of Pardons and Paroles."

294 **PART III**  
295 "STATE-WIDE PROBATION ACT"  
296 **SECTION 3-1.**

297 Said Title 42 is further amended by revising Article 2 of Chapter 8, relating to creating the  
298 state-wide probation system, as follows:

299 "ARTICLE 2

300 42-8-20.

301 This article shall be known and may be cited as the 'State-wide Probation Act.'

302 42-8-21.

303 As used in this article, the term:

304 (1) 'Board' means the Board of Corrections.

305 (2) 'Commissioner' means the commissioner of corrections.

306 (3) 'Department' means the Department of Corrections.

307 42-8-22.

308 There is created a state-wide probation system for felony offenders to be administered by  
309 the Division of Community Supervision of the Department of Corrections. The probation  
310 system shall not be administered as part of the duties and activities of the State Board of  
311 Pardons and Paroles. Separate files and records shall be kept with relation to the state-wide  
312 probation system.

313 42-8-23.

314 The Division of Community Supervision of the department shall administer the supervision  
315 of felony probationers. Nothing in this Code section shall alter the relationship between  
316 judges and ~~probation supervisors~~ community supervision officers prescribed in this article.

317 42-8-24.

318 ~~It shall be the duty of the department to supervise and direct the work of the probation~~  
319 ~~supervisors provided for in Code Section 42-8-25 and to keep accurate files and records on~~  
320 ~~all probation cases and persons on probation. It shall be the duty of the board to~~  
321 ~~promulgate rules and regulations necessary to effectuate the purposes of this chapter~~  
322 Reserved.

42-8-25.

~~The department shall employ probation supervisors. The department may assign one supervisor to each judicial circuit in this state or, for purposes of assignment, may consolidate two or more judicial circuits and assign one supervisor thereto. In the event the department determines that more than one supervisor is needed for a particular circuit, an additional supervisor or additional supervisors may be assigned to the circuit. The department is authorized to direct any probation supervisor to assist any other probation supervisor wherever assigned. In the event that more than one supervisor is assigned to the same office or to the same division within a particular judicial circuit, the department shall designate one of the supervisors to be in charge~~ Reserved.

42-8-26.

~~(a) In order for a person to hold the office of probation supervisor, he must be at least 21 years of age at the time of appointment and must have completed a standard two-year college course, provided that any person who is employed as a probation supervisor on or before July 1, 1972, shall not be required to meet the educational requirements specified in this Code section, nor shall he be prejudiced in any way for not possessing the requirements. The qualifications provided in this Code section are the minimum qualifications and the department is authorized to prescribe such additional and higher educational qualifications from time to time as it deems desirable, but not to exceed a four-year standard college course.~~

~~(b) The compensation of the probation supervisors shall be set by the State Personnel Board and the State Personnel Administration. Probation supervisors shall also be allowed travel and other expenses as are other state employees.~~

~~(c)(1) No supervisor shall engage in any other employment, business, or activities which interfere or conflict with his or her duties and responsibilities as probation supervisor.~~

~~(2) No supervisor shall own, operate, have any financial interest in, be an instructor at, or be employed by any private entity which provides drug or alcohol education services or offers a DUI Alcohol or Drug Use Risk Reduction Program certified by the Department of Driver Services.~~

~~(3) No supervisor shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk Reduction Program which a probationer may or shall attend. This paragraph shall not prohibit any supervisor from furnishing any probationer, upon request, the names of certified DUI Alcohol or Drug Use Risk Reduction Programs. Any supervisor violating this paragraph shall be guilty of a misdemeanor.~~

~~(d) Each probation supervisor shall give bond in such amount as may be fixed by the department payable to the department for the use of the person or persons damaged by his~~

~~misfeasance or malfeasance and conditioned on the faithful performance of his duties. The cost of the bond shall be paid by the department; provided, however, that the bond may be procured, either by the department or by the Department of Administrative Services, under a master policy or on a group blanket coverage basis, where only the number of positions in each judicial circuit and the amount of coverage for each position are listed in a schedule attached to the bond; and in such case each individual shall be fully bonded and bound as principal, together with the surety, by virtue of his holding the position or performing the duties of probation supervisor in the circuit or circuits, and his individual signature shall not be necessary for such bond to be valid in accordance with all the laws of this state. The bond or bonds shall be made payable to the department~~ Reserved.

42-8-27.

~~The probation supervisor shall supervise and counsel probationers in the judicial circuit to which he is assigned. Each supervisor shall perform the duties prescribed in this chapter and such duties as are prescribed by the department and shall keep such records and files and make such reports as are required of him~~ Reserved.

42-8-28.

~~Probation supervisors shall be assigned among the respective judicial circuits based generally on the relative number of persons on probation in each circuit~~ Reserved.

42-8-29.

~~It shall be the duty of the probation supervisor to investigate all cases referred to him by the court and to make his findings and report thereon in writing to the court with his recommendation. The superior court may require, before imposition of sentence, a presentence investigation and written report in each felony case in which the defendant has entered a plea of guilty or nolo contendere or has been convicted. The probation supervisor shall cause to be delivered to each person placed on probation under his supervision a certified copy of the terms of probation and any change or modification thereof and shall cause the person to be instructed regarding the same. He shall keep informed concerning the conduct, habits, associates, employment, recreation, and whereabouts of the probationer by visits, by requiring reports, or in other ways. He shall make such reports in writing or otherwise as the court may require. He shall use all practicable and proper methods to aid and encourage persons on probation and to bring about improvements in their conduct and condition. He shall keep records on each probationer referred to him~~ Reserved.

~~42-8-29.1.~~

~~(a) When a convicted person is committed to an institution under the jurisdiction of the department, any presentence or post-sentence investigation or psychological evaluation compiled by a probation supervisor or other probation official shall be forwarded to any division or office designated by the commissioner. Accompanying this document or evaluation will be the case history form and the criminal history sheets from the Federal Bureau of Investigation or the Georgia Crime Information Center, if available, unless any such information has previously been sent to the department pursuant to Code Section 42-5-50. A copy of these same documents shall be made available for the State Board of Pardons and Paroles. A copy of one or more of these documents, based on need, may be forwarded to another institution to which the defendant may be committed.~~

~~(b) The prison or institution receiving these documents shall maintain the confidentiality of the documents and the information contained therein and shall not send them or release them or reveal them to any other person, institution, or agency without the express consent of the probation unit which originated or accumulated the documents.~~

~~42-8-30.~~

~~In the counties where no juvenile probation system exists, juvenile offenders, upon direction of the court, shall be supervised by probation supervisors. Other than in this respect, nothing in this article shall be construed to change or modify any law relative to probation as administered by any juvenile court in this state Reserved.~~

~~42-8-30.1.~~

~~In any county where the chief judge of the superior court, state court, municipal court, probate court, or magistrate court has provided for probation services for such court through agreement with a private corporation, enterprise, or agency or has established a county or municipal probation system for such court pursuant to Code Section 42-8-100, the provisions of this article relating to probation supervision services shall not apply to defendants sentenced in any such court.~~

~~42-8-31.~~

~~No probation supervisor shall collect or disburse any funds whatsoever, except by written order of the court, and it shall be the duty of the supervisor to transmit a copy of the order to the department not later than 15 days after it has been issued by the court. Every supervisor who collects or disburses any funds whatsoever shall faithfully keep the records of accounts as are required by the department, which records shall be subject to inspection~~

424 by the department at any time. In every instance where a bank account is required, it shall  
425 be kept in the name of the 'State Probation Office.' Reserved.

426 42-8-32.

427 No probation supervisor shall be directed to collect any funds other than funds directed to  
428 be paid as the result of a criminal proceeding Reserved.

429 42-8-33.

430 (a) ~~The department shall make periodic audits of each probation supervisor who, by virtue~~  
431 ~~of his duties, has any moneys, fines, court costs, property, or other funds coming into his~~  
432 ~~control or possession or being disbursed by him. The department shall keep a permanent~~  
433 ~~record of the audit of each probation supervisor's accounts on file. It shall be the duty of~~  
434 ~~the employee of the department conducting the audit to notify the department in writing of~~  
435 ~~any discrepancy of an illegal nature that might result in prosecution. The department shall~~  
436 ~~have the right to interview and make inquiry of certain selected payors or recipients of~~  
437 ~~funds, as it may choose, without notifying the probation supervisor, to carry out the~~  
438 ~~purposes of the audit. The employee who conducts the audit shall be required to give bond~~  
439 ~~in such amount as may be set by the department, in the same manner and for the same~~  
440 ~~purposes as provided under Code Section 42-8-26 for the bonds of probation supervisors.~~  
441 ~~The bond shall bind the employee and his surety in the performance of his duties.~~  
442 (b) ~~Any overpayment of fines, restitutions, or other moneys owed as a condition of~~  
443 ~~probation shall not be refunded to the probationer if the amount of such overpayment is less~~  
444 ~~than \$5.00.~~

445 42-8-34.

446 (a) Any court of this state which has original jurisdiction of criminal actions, except  
447 juvenile courts, municipal courts, and probate courts, in which the defendant in a criminal  
448 case has been found guilty upon verdict or plea or has been sentenced upon a plea of nolo  
449 contendere, except for an offense punishable by death or life imprisonment, may, at a time  
450 to be determined by the court, hear and determine the question of the probation of such  
451 defendant.

452 (b) Prior to the hearing, the court may refer the case to the ~~probation supervisor~~  
453 community supervision officer of the circuit in which the court is located for investigation  
454 and recommendation. The court, upon such reference, shall direct the ~~supervisor~~  
455 community supervision officer to make an investigation and to report to the court, in  
456 writing at a specified time, upon the circumstances of the offense and the criminal record,  
457 social history, and present condition of the defendant, together with the ~~supervisor's~~

458 community supervision officer's recommendation; and it shall be the duty of the ~~supervisor~~  
459 community supervision officer to carry out the directive of the court.

460 (c) Subject to the provisions of subsection (a) of Code Section 17-10-1 and subsection (f)  
461 of Code Section 17-10-3, if it appears to the court upon a hearing of the matter that the  
462 defendant is not likely to engage in a criminal course of conduct and that the ends of justice  
463 and the welfare of society do not require that the defendant shall presently suffer the  
464 penalty imposed by law, the court in its discretion shall impose sentence upon the  
465 defendant but may stay and suspend the execution of the sentence or any portion thereof  
466 or may place him or her on probation under the supervision and control of the ~~probation~~  
467 ~~supervisor~~ community supervision officer for the duration of such probation. The period  
468 of probation or suspension shall not exceed the maximum sentence of confinement which  
469 could be imposed on the defendant.

470 (d)(1) In every case that a court of this state or any other state sentences a defendant to  
471 probation or any pretrial release or diversion program under the supervision of the  
472 department, in addition to any fine or order of restitution imposed by the court, there shall  
473 be imposed a probation fee as a condition of probation, release, or diversion in the  
474 amount equivalent to \$23.00 per each month under supervision, and in addition, a  
475 one-time fee of \$50.00 where such defendant was convicted of any felony. The probation  
476 fee may be waived or amended after administrative process by the department and  
477 approval of the court, or upon determination by the court, as to the undue hardship,  
478 inability to pay, or any other extenuating factors which prohibit collection of the fee;  
479 provided, however, that the imposition of sanctions for failure to pay fees shall be within  
480 the discretion of the court through judicial process or hearings. Probation fees shall be  
481 waived on probationers incarcerated or detained in a departmental or other confinement  
482 facility which prohibits employment for wages. All probation fees collected by the  
483 department shall be paid into the general fund of the state treasury, except as provided in  
484 subsection (f) of Code Section 17-15-13, relating to sums to be paid into the Georgia  
485 Crime Victims Emergency Fund. Any fees collected by the court under this paragraph  
486 shall be remitted not later than the last day of the month after such fee is collected to the  
487 Georgia Superior Court Clerks' Cooperative Authority for deposit into the general fund  
488 of the state treasury.

489 (2) In addition to any other provision of law, any person convicted of a violation of Code  
490 Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to  
491 probation or a suspended sentence by a municipal, magistrate, probate, recorder's,  
492 mayor's, state, or superior court shall also be required by the court to pay a one-time fee  
493 of \$25.00. The clerk of court, or if there is no clerk the person designated to collect fines,  
494 fees, and forfeitures for such court, shall collect such fee and remit the same not later than

the last day of the month after such fee is collected to the Georgia Superior Court Clerks' Cooperative Authority for deposit into the general fund of the state treasury.

(3) In addition to any fine, fee, restitution, or other amount ordered, the sentencing court may also impose as a condition of probation for felony criminal defendants sentenced to a day reporting center an additional charge, not to exceed \$10.00 per day for each day such defendant is required to report to a day reporting center; provided, however, that no fee shall be imposed or collected if the defendant is unemployed or has been found indigent by the sentencing court. The charges required by this paragraph shall be paid by the probationer directly to the department. Funds collected by the department pursuant to this ~~subsection~~ paragraph shall only be used by the department in the maintenance and operation of the day reporting center program.

(e) The court may, in its discretion, require the payment of a fine or costs, or both, as a condition precedent to probation.

(f) During the interval between the conviction or plea and the hearing to determine the question of probation, the court may, in its discretion, either order the confinement of the defendant without bond or may permit ~~his~~ the defendant's release on bond, which bond shall be conditioned on ~~his~~ the defendant's appearance at the hearing and shall be subject to the same rules as govern appearance bonds. Any time served in confinement shall be considered a part of the sentence of the defendant.

(g) The sentencing judge shall not lose jurisdiction over any person placed on probation during the term of the person's probated sentence. The judge is empowered to revoke any or all of the probated sentence, rescind any or all of the sentence, or, in any manner deemed advisable by the judge, modify or change the probated sentence, including ordering the probationer into the sentencing options system, as provided in Article 9 of this chapter, at any time during the period of time prescribed for the probated sentence to run.

(h) Notwithstanding any provision of this Code or any rule or regulation to the contrary, if a defendant is placed on probation in a county of a judicial circuit other than the one in which he or she resides for committing any misdemeanor offense, such ~~defendant~~ probationer may, when specifically ordered by the court, have his or her probation supervision transferred to the judicial circuit of the county in which ~~he~~ the probationer resides.

42-8-34.1.

(a) For the purposes of this Code section, the term 'special condition of probation or suspension of the sentence' means a condition of a probated or suspended sentence which:

(1) Is expressly imposed as part of the sentence in addition to general conditions of probation and court ordered fines and fees; and



(2) Is identified in writing in the sentence as a condition the violation of which authorizes the court to revoke the probation or suspension and require the defendant to serve up to the balance of the sentence in confinement.

(b) A court may not revoke any part of any probated or suspended sentence unless the defendant admits the violation as alleged or unless the evidence produced at the revocation hearing establishes by a preponderance of the evidence the violation or violations alleged.

(c) At any revocation hearing, upon proof that the defendant has violated any general provision of probation or suspension other than by commission of a new felony offense, the court shall consider the use of alternatives to include community service, intensive probation, diversion centers, probation detention centers, special alternative incarceration, or any other alternative to confinement deemed appropriate by the court or as provided by the state or county. In the event the court determines that the defendant does not meet the criteria for said alternatives, the court may revoke the balance of probation or not more than two years in confinement, whichever is less.

(d) If the violation of probation or suspension alleged and proven by a preponderance of the evidence or the defendant's admission is the commission of a felony offense, the court may revoke no more than the lesser of the balance of probation or the maximum time of the sentence authorized to be imposed for the crime constituting the violation of the probation.

(e) If the violation of probation or suspension alleged and proven by a preponderance of the evidence or the defendant's admission is the violation of a special condition of probation or suspension of the sentence, the court may revoke the probation or suspension of the sentence and require the defendant to serve the balance or portion of the balance of the original sentence in confinement.

(f) The payment of restitution or reparation, costs, or fines ordered by the court may be payable in one lump sum or in periodic payments, as determined by the court after consideration of all the facts and circumstances of the case and of the defendant's ability to pay. Such payments shall, in the discretion of the sentencing judge, be made either to the clerk of the sentencing court or, if the sentencing court is a probate court, state court, or superior court, to the ~~probation~~ community supervision office serving said court.

(g) In no event shall ~~an offender~~ a probationer be supervised on probation for more than a total of two years for any one offense or series of offenses arising out of the same transaction, whether before or after confinement, except as provided by paragraph (2) of subsection (a) of Code Section 17-10-1.

42-8-34.2.

(a) In the event that a ~~defendant~~ probationer is delinquent in the payment of fines, costs, or restitution or reparation, as was ordered by the court as a condition of probation, the ~~defendant's probation~~ probationer's community supervision officer is shall be authorized, but shall not be required, to execute a sworn affidavit wherein the amount of arrearage is set out. In addition, the affidavit shall contain a succinct statement as to what efforts the department has made in trying to collect the delinquent amount. The affidavit shall then be submitted to the sentencing court for approval. Upon signature and approval of the court, said arrearage shall then be collectable through issuance of a writ of fieri facias by the clerk of the sentencing court; and the department may enforce such collection through any judicial or other process or procedure which may be used by the holder of a writ of execution arising from a civil action.

(b) This Code section provides the state with remedies in addition to all other remedies provided for by law; and nothing in this Code section shall preclude the use of any other or additional remedy in any case.

(c) No clerk of any court shall be authorized to require any deposit of cost or any other filing or service fee as a condition to the filing of a garnishment action or other action or proceeding authorized under this Code section. In any such action or proceeding, however, the clerk of the court in which the action is filed shall deduct and retain all proper court costs from any funds paid into the treasury of the court, prior to any other disbursement of such funds so paid into court.

42-8-35.

(a) The court shall determine the terms and conditions of probation and may provide that the probationer shall:

(1) Avoid injurious and vicious habits;

(2) Avoid persons or places of disreputable or harmful character;

(3) Report to the ~~probation supervisor~~ community supervision officer as directed;

(4) Permit the ~~supervisor~~ community supervision officer to visit the probationer at the probationer's home or elsewhere;

(5) Work faithfully at suitable employment insofar as may be possible;

(6) Remain within a specified location; provided, however, that the court shall not banish a probationer to any area within the state:

(A) That does not consist of at least one entire judicial circuit as described by Code Section 15-6-1; or

(B) In which any service or program in which the probationer must participate as a condition of probation is not available;

(7) Make reparation or restitution to any aggrieved person for the damage or loss caused by the probationer's offense, in an amount to be determined by the court. Unless otherwise provided by law, no reparation or restitution to any aggrieved person for the damage or loss caused by the probationer's offense shall be made if the amount is in dispute unless the same has been adjudicated;

(8) Make reparation or restitution as reimbursement to a municipality or county for the payment for medical care furnished the person while incarcerated pursuant to the provisions of Article 3 of Chapter 4 of this title. No reparation or restitution to a local governmental unit for the provision of medical care shall be made if the amount is in dispute unless the same has been adjudicated;

(9) Repay the costs incurred by any municipality or county for wrongful actions by an inmate covered under the provisions of paragraph (1) of subsection (a) of Code Section 42-4-71;

(10) Support the probationer's legal dependents to the best of the probationer's ability;

(11) Violate no local, state, or federal laws and be of general good behavior;

(12) If permitted to move or travel to another state, agree to waive extradition from any jurisdiction where the probationer may be found and not contest any effort by any jurisdiction to return the probationer to this state; and

(13) Submit to evaluations and testing relating to rehabilitation and participate in and successfully complete rehabilitative programming as directed by the department.

(b) In determining the terms and conditions of probation for a probationer who has been convicted of a criminal offense against a victim who is a minor or dangerous sexual offense as those terms are defined in Code Section 42-1-12, the court may provide that the probationer shall be:

(1) Prohibited from entering or remaining present at a victim's school, place of employment, place of residence, or other specified place at times when a victim is present or from loitering in areas where minors congregate, child care facilities, churches, or schools as those terms are defined in Code Section 42-1-12;

(2) Required to wear a device capable of tracking the location of the probationer by means including electronic surveillance or global positioning systems. The department shall assess and collect fees from the probationer for such monitoring at levels set by regulation by the department;

(3) Required, either in person or through remote monitoring, to allow viewing and recording of the probationer's incoming and outgoing e-mail, history of websites visited and content accessed, and other Internet based communication;

(4) Required to have periodic unannounced inspections of the contents of the probationer's computer or any other device with Internet access including the retrieval

and copying of all data from the computer or device and any internal or external storage or portable media and the removal of such information, computer, device, or medium; and

(5) Prohibited from seeking election to a local board of education.

(c) The supervision provided for under subsection (b) of this Code section shall be conducted by a ~~probation~~ community supervision officer, law enforcement officer, or computer information technology specialist working under the supervision of a ~~probation~~ community supervision officer or law enforcement agency.

42-8-35.1.

(a) In addition to any other terms or conditions of probation provided for under this chapter, the trial judge may provide that probationers sentenced for felony offenses ~~committed on or after July 1, 1993~~, to a period of time of not less than one year on probation as a condition of probation must satisfactorily complete a program of confinement in a 'special alternative incarceration—probation boot camp' unit of the department for a period of 120 days computed from the time of initial confinement in the unit; provided, however, the department may release the defendant upon service of 90 days in recognition of excellent behavior.

(b) Before a court can place this condition upon the sentence, an initial investigation ~~will~~ shall be completed by the ~~probation officer~~ community supervision officer which will indicate that the probationer is qualified for such treatment in that the ~~individual probationer~~ does not appear to be physically or mentally disabled in a way that would prevent him or her from strenuous physical activity, that the ~~individual probationer~~ has no obvious contagious diseases, that the ~~individual probationer~~ is not less than 17 years of age nor more than 30 years of age at the time of sentencing, and that the department has granted provisional approval of the placement of the ~~individual probationer~~ in the 'special alternative incarceration—probation boot camp' unit.

(c) In every case where ~~an individual~~ a probationer is sentenced under the terms of this Code section, the sentencing court shall, within its probation order, direct the department to arrange with the sheriff's office in the county of incarceration to have the ~~individual probationer~~ delivered to a designated unit of the department within a specific date not more than 15 days after the issuance of such probation order by the court.

(d) At any time during the ~~individual's~~ probationer's confinement in the unit, but at least five days prior to his or her expected date of release, the department ~~will~~ shall certify to the trial court as to whether the ~~individual probationer~~ has satisfactorily completed this condition of probation.

(e) Upon the receipt of a satisfactory report of performance in the program from the department, the trial court shall release the ~~individual~~ probationer from confinement in the 'special alternative incarceration—probation boot camp' unit. ~~However, provided,~~ however, that the receipt of an unsatisfactory report will be grounds for revocation of the probated sentence as would any other violation of a condition or term of probation.

(f) The satisfactory report of performance in the program from the department shall, in addition to the other requirements specified in this Code section, require participation of the ~~individual~~ probationer confined in the unit in such adult education courses necessary to attain the equivalency of a grade five competency level as established by the State Board of Education for elementary schools. Those individuals who are mentally disabled as determined by initial testing ~~are~~ shall be exempt from mandatory participation. After the ~~individual~~ probationer is released from the unit, it shall be a special condition of probation that the ~~individual~~ probationer participate in an education program in the community until grade five level competency is achieved or active probation supervision terminates. It shall be the duty of the department to certify to the trial court that such ~~individual~~ probationer has satisfactorily completed this condition of probation while on active probation supervision. The receipt of an unsatisfactory report may be grounds for revocation of the probated sentence as would any other violation of a condition or term of probation. Under certain circumstances, the probationer may be exempt from this requirement if it is determined by the ~~probation~~ community supervision officer that community education resources are inaccessible to the probationer.

42-8-35.2.

(a) Notwithstanding any other provisions of law, the court, when imposing a sentence of imprisonment after a conviction of a violation of subsection (b) or (d) of Code Section 16-13-30 or after a conviction of a violation of Code Section 16-13-31, shall impose a special term of probation of three years in addition to such term of imprisonment; provided, however, upon a second or subsequent conviction of a violation of the provisions of such Code sections as stated in this subsection, the special term of probation shall be six years in addition to any term of imprisonment.

(b) A special term of probation imposed under this Code section may be revoked if the terms and conditions of probation are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special term of probation and the resulting new term of imprisonment shall not be diminished by the time which was spent on special probation. A person whose special term of probation has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special term of probation provided for in this Code section shall be in addition to, and not in lieu

of, any other probation provided for by law and shall be supervised in the same manner as other probations as provided in this chapter.

(c) Upon written application by the probationer to the trial court, the court may, in its discretion, suspend the balance of any special term of probation, provided that at least one-half of said special term of probation has been completed and all fines associated with the original sentence have been paid and all other terms of the original sentence and the terms of the special probation have been met by the probationer.

42-8-35.3.

Notwithstanding any other terms or conditions of probation which may be imposed, a court sentencing a defendant to probation for a violation of Code Section 16-5-90 or 16-5-91 may impose one or more of the following conditions on such probation:

(1) Prohibit the ~~defendant~~ probationer from engaging in conduct in violation of Code Section 16-5-90 or 16-5-91;

(2) Require the ~~defendant~~ probationer to undergo a mental health evaluation and, if it is determined by the court from the results of such evaluation that the ~~defendant~~ probationer is in need of treatment or counseling, require the ~~defendant~~ probationer to undergo mental health treatment or counseling by a court approved mental health professional, mental health facility, or facility of the Department of Behavioral Health and Developmental Disabilities. Unless the ~~defendant~~ probationer is indigent, the cost of any such treatment shall be borne by the ~~defendant~~ probationer; or

(3) Prohibit the ~~defendant~~ probationer from entering or remaining present at the victim's school, place of employment, or other specified places at times when the victim is present.

42-8-35.4.

(a) In addition to any other terms and conditions of probation provided for in this article, the trial judge may require that a defendant convicted of a felony and sentenced to a period of not less than one year on probation or a defendant who has been previously sentenced to probation for a forcible misdemeanor as defined in paragraph (7) of Code Section 16-1-3 or a misdemeanor of a high and aggravated nature and has violated probation or other probation alternatives and is subsequently sentenced to a period of not less than one year on probation shall complete satisfactorily, as a condition of that probation, a program of confinement in a probation detention center. Probationers so sentenced ~~will~~ shall be required to serve the period of confinement specified in the court order.

(b) The court shall determine that the defendant is at least 17 years of age at the time of sentencing.

(c) During the period of confinement, the department may transfer the probationer to other facilities in order to provide needed physical and mental health care or for other reasons essential to the care and supervision of the probationer or as necessary for the effective administration and management of its facilities.

42-8-35.5.

(a) In addition to any other terms and conditions of probation provided in this article, the trial judge may require that probationers sentenced to a period of not less than one year on probation shall satisfactorily complete, as a condition of that probation, a program in a probation diversion center. Probationers so sentenced ~~will~~ shall be required to serve a period of confinement as specified in the court order, which confinement period shall be computed from the date of initial confinement in the diversion center.

(b) The court shall determine that the defendant is at least 17 years of age at the time of sentencing, is capable both physically and mentally of maintaining paid employment in the community, and does not unnecessarily jeopardize the safety of the community.

(c) The department may assess and collect room and board fees from diversion center program participants at a level set by the department.

42-8-35.6.

(a) Notwithstanding any other terms or conditions of probation which may be imposed, a court sentencing a defendant to probation for an offense involving family violence as such term is defined in Code Section 19-13-10 shall require as a condition of probation that the ~~defendant~~ probationer participate in a family violence intervention program certified pursuant to Article 1A of Chapter 13 of Title 19, unless the court determines and states on the record why participation in such a program is not appropriate.

(b) A court, in addition to imposing any penalty provided by law, when revoking a ~~defendant's~~ probationer's probation for an offense involving family violence as defined by Code Section 19-13-10, or when imposing a protective order against family violence, shall order the ~~defendant~~ probationer to participate in a family violence intervention program certified pursuant to Article 1A of Chapter 13 of Title 19, unless the court determines and states on the record why participation in such program is not appropriate.

(c) The State Board of Pardons and Paroles, for a violation of parole for an offense involving family violence as defined by Code Section 19-13-10, shall require the ~~conditional releasee~~ parolee to participate in a family violence intervention program certified pursuant to Article 1A of Chapter 13 of Title 19, unless the State Board of Pardons and Paroles determines why participation in such a program is not appropriate.

(d) Unless the ~~defendant~~ probationer is indigent, the cost of the family violence intervention program as provided by this Code section shall be borne by the ~~defendant~~ probationer. If the ~~defendant~~ probationer is indigent, then the cost of the program shall be determined by a sliding scale based upon the ~~defendant's~~ probationer's ability to pay.

42-8-35.7.

Unless the court has ordered more frequent such screenings, it shall be the duty of each ~~probation supervisor~~ community supervision officer to administer or have administered a drug and alcohol screening not less than once every 60 days to any person who is placed on probation and who, as a condition of such probation, is required to undergo regular, random drug and alcohol screenings, provided that the drug and alcohol screenings required by this Code section shall be performed only to the extent that necessary funds therefor are appropriated in the state budget.

42-8-36.

(a)(1) Any other provision of this article to the contrary notwithstanding, it shall be the duty of a probationer, as a condition of probation, to keep his or her community supervision officer ~~probation supervisor~~ informed as to his or her residence. Upon the recommendation of the ~~probation supervisor~~ community supervision officer, the court may also require, as a condition of probation and under such terms as the court deems advisable, that the probationer keep the ~~probation supervisor~~ community supervision officer informed as to his or her whereabouts. The failure of a probationer to report to his ~~probation supervisor~~ or her community supervision officer as directed or a return of non est inventus or other return to a warrant, for the violation of the terms and conditions of probation, that the probationer cannot be found in the county that appears from the records of the ~~probation supervisor~~ community supervision officer to be the probationer's county of residence shall automatically suspend the running of the probated sentence until the probationer shall personally report to the ~~probation supervisor~~ community supervision officer, is taken into custody in this state, or is otherwise available to the court; and such period of time shall not be included in computing creditable time served on probation or as any part of the time that the probationer was sentenced to serve. The effective date of the tolling of the sentence shall be the date that the community supervision officer returns the warrant showing non est inventus. Any officer authorized by law to issue or serve warrants may return the warrant for the absconded probationer showing non est inventus.

(2) In addition to the provisions of paragraph (1) of this subsection, if the ~~probation supervisor~~ community supervision officer submits an affidavit to the court stating that a probationer has absconded and cannot be found, the running of the probated sentence



shall be suspended effective on the date such affidavit is submitted to the court and continuing until the probationer shall personally report to the ~~probation supervisor~~ community supervision officer, is taken into custody in this state, or is otherwise available to the court.

(b) Any unpaid fines, restitution, or any other moneys owed as a condition of probation shall be due when the probationer is arrested; but, if the entire balance of his or her probation is revoked, all the conditions of probation, including moneys owed, shall be negated by his or her imprisonment. If only part of the balance of the probation is revoked, the probationer shall still be responsible for the full amount of the unpaid fines, restitution, and other moneys upon his or her return to probation after release from imprisonment.

42-8-37.

(a) Upon the termination of the period of probation, the probationer shall be released from probation and shall not be liable to sentence for the crime for which probation was allowed; provided, however, the foregoing shall not be construed to prohibit the conviction and sentencing of the probationer for the subsequent commission of the same or a similar offense or for the subsequent continuation of the offense for which he or she was previously sentenced. The court may at any time cause the probationer to appear before it to be admonished or commended and, when satisfied that its action would be for the best interests of justice and the welfare of society, may discharge the probationer from further supervision.

(b) Upon the request of the chief judge of the court from which ~~said person~~ a probationer was sentenced, the case of each ~~person~~ probationer receiving a probated sentence of more than two years shall be reviewed by the ~~probation supervisor~~ community supervision officer responsible for that case after service of two years on probation, and a written report of the probationer's progress shall be submitted to the sentencing court along with the ~~supervisor's~~ community supervision officer's recommendation as to early termination. Upon the request of the chief judge of the court from which ~~said person~~ such probationer was sentenced, each such case shall be reviewed and a written report submitted annually thereafter, or more often if required, until the termination, expiration, or other disposition of the case.

42-8-38.

(a) Whenever, within the period of probation, a ~~probation supervisor~~ community supervision officer believes that a probationer under his or her supervision has violated his or her probation in a material respect, ~~he~~ such officer may arrest the probationer without warrant, wherever found, and return ~~him~~ the probationer to the court granting the probation

or, if under supervision in a county or judicial circuit other than that of conviction, to a court of equivalent original criminal jurisdiction within the county wherein the probationer resides for purposes of supervision. Any officer authorized by law to issue warrants may issue a warrant for the arrest of the probationer upon the affidavit of one having knowledge of the alleged violation, returnable forthwith before the court in which revocation proceedings are being brought.

(b) The court, upon the probationer being brought before it, may commit ~~him~~ the probationer or release ~~him~~ the probationer with or without bail to await further hearing or it may dismiss the charge. If the charge is not dismissed at this time, the court shall give the probationer an opportunity to be heard fully at the earliest possible date on his or her own behalf, in person or by counsel, provided that, if the revocation proceeding is in a court other than the court of the original criminal conviction, the sentencing court shall be given ten days' written notice prior to a hearing on the merits.

(c) After the hearing, the court may revoke, modify, or continue the probation. If the probation is revoked, the court may order the execution of the sentence originally imposed or of any portion thereof. In such event, the time that the defendant has served under probation shall be considered as time served and shall be deducted from and considered a part of the time ~~he~~ the probationer was originally sentenced to serve.

(d) In cases where the probation is revoked in a county other than the county of original conviction, the clerk of court in the county revoking probation may record the order of revocation in the judge's minute docket, which recordation shall constitute sufficient permanent record of the proceedings in that court. The clerk shall send one copy of the order revoking probation to the department to serve as a temporary commitment and shall send the original order revoking probation and all other papers pertaining thereto to the county of original conviction to be filed with the original records. The clerk of court of the county of original conviction shall then issue a formal commitment to the department.

42-8-39.

In all criminal cases in which the defendant is found guilty or in which a plea of guilty or of nolo contendere is entered and in which the trial judge after imposing sentence further provides that the execution of the sentence shall be suspended, such provision shall not have the effect of placing the defendant on probation as provided in this article.

42-8-40.

~~All reports, files, records, and papers of whatever kind relative to the state-wide probation system are declared to be confidential and shall be available only to the probation system officials and to the judge handling a particular case. They shall not be subject to process~~

883 ~~of subpoena. However, the commissioner may by written order declassify any such records~~  
884 Reserved.

885 42-8-41.

886 All state and local departments, agencies, boards, bureaus, commissions, and committees  
887 shall cooperate with the ~~probation officials~~ community supervision officers.

888 42-8-42.

889 ~~The department may provide office space and clerical help wherever needed. The counties~~  
890 ~~of this state shall cooperate in this respect and, wherever possible, shall furnish office space~~  
891 ~~if needed~~ Reserved.

892 42-8-43.

893 Except as otherwise provided by law, any county probation system in existence on  
894 February 8, 1956, shall not be affected by the passage of this article, regardless of whether  
895 the law under which the system exists is specifically repealed by this article. The personnel  
896 of the system shall continue to be appointed and employed under the same procedure as  
897 used prior to February 8, 1956, and the system shall be financed under the same method  
898 as it was financed prior to February 8, 1956. However, the substantive provisions of this  
899 article and Chapter 9A of this title relative to probation shall be followed, and to this end  
900 any probation officer of such system shall be deemed to be the same as a ~~probation~~  
901 ~~supervisor~~ community supervision officer, with the ~~probation supervisor~~ community  
902 supervision officer assigned by the department serving in a liaison capacity between the  
903 county probation system and the department.

904 ~~42-8-43.1.~~

905 ~~(a) This Code section shall apply to county probation systems of all counties of this state~~  
906 ~~having a population of 400,000 or more according to the United States decennial census~~  
907 ~~of 1980 or any future such census, any provision of Code Section 42-8-43 to the contrary~~  
908 ~~notwithstanding. The department shall participate in the cost of the county probation~~  
909 ~~systems subject to this Code section for fiscal years 1982-83 and 1983-84. The department~~  
910 ~~shall compute the state cost per probationer on a state-wide basis for each of the aforesaid~~  
911 ~~fiscal years pursuant to the formula used by the Office of Planning and Budget to determine~~  
912 ~~the state cost for probation for budgetary purposes. For each of the aforesaid fiscal years,~~  
913 ~~the department shall pay to the governing authority of each county maintaining a county~~  
914 ~~probation system subject to this Code section the percentage shown below of the state-wide~~

~~cost per probationer for each probationer being supervised under the respective county probation system as of the first day of each of said fiscal years:~~

~~(1) For fiscal year 1982-83, 10 percent; and~~

~~(2) For fiscal year 1983-84, 10-100 percent.~~

~~(b) The funds necessary to participate in the cost of county probation systems under subsection (a) of this Code section shall come from funds appropriated to the department for the purposes of providing state participation in the cost of county probation systems. The payments to counties provided for in subsection (a) of this Code section shall be made by, or pursuant to the order of, the department in single lump sum payment for each fiscal year, with the payment for fiscal year 1982-83 being made by May 1, 1983, and the one for fiscal year 1983-84 by May 1, 1984. As a condition necessary for a county to qualify for department participation in the cost of the county's probation system, the employees of such county probation systems shall be subject to the supervision, control, and direction of the department.~~

~~(c) Each county probation system subject to the provisions of this Code section shall become a part of the state-wide probation system provided for by this article effective on July 1, 1984, and shall be fully funded from state funds as a part of the state-wide probation system beginning with fiscal year 1984-85. The employees of said county probation systems, at their option, shall become employees of the department on the date said county systems become a part of the state-wide probation system and, on or after said date, said employees shall be subject to the salary schedules and other personnel policies of the department, except that the salaries of such employees shall not be reduced as a result of becoming employees of the department.~~

~~(d) When an employee of a county probation system of any county of this state having a population of 550,000 or more according to the United States decennial census of 1980 or any future such census becomes an employee of the department pursuant to subsection (c) of this Code section at the same or a greater salary, the change in employment shall not constitute involuntary separation from service or termination of employment within the meaning of any local retirement or pension system of which the employee was a member at the time of such change in employment, and the change in employment shall not entitle the employee to begin receiving any retirement or pension benefit whatsoever under any such local retirement or pension system.~~

~~42-8-43.2.~~

~~(a) This Code section shall apply to county probation systems, including state court adult probation systems, of each county having a population of more than 100,000 in any metropolitan statistical area having a population of not less than 200,000 nor more than~~

230,000 according to the United States decennial census of 1980 or any future such census, any provision of Code Section 42-8-43 to the contrary notwithstanding. The department shall participate in the cost of the county probation systems subject to this Code section for fiscal year 1987-88. The department shall compute the state cost per probationer on a state-wide basis for such fiscal year pursuant to the formula used by the Office of Planning and Budget to determine the state cost for probation for budgetary purposes. For said fiscal year, the department shall pay to the governing authority of each county maintaining a county probation system subject to this Code section 10 percent of the state-wide cost per probationer for each probationer being supervised under the respective county probation system as of the first day of said fiscal year. The funds necessary to participate in the cost of county probation systems under this subsection shall come from funds appropriated to the department for the purposes of providing state participation in the cost of county probation systems. The payments to counties provided for in this subsection shall be made by, or pursuant to the order of, the department in single lump sum payment for fiscal year 1987-88, with the payment being made by May 1, 1988. As a condition necessary for a county to qualify for department participation in the cost of the county's probation system, the county shall cause to be made an independent audit of the financial affairs and transactions of all funds and activities of the county probation system and agree to be responsible for any discrepancies, obligations, debts, or liabilities of such county probation system which may exist prior to the department's participation in the cost of the county's probation system. As a further condition necessary for a county to qualify for department participation in the cost of the county's probation system, the employees of such county probation systems shall be subject to the supervision, control, and direction of the department.

(b) The county probation system of any such county shall become a part of the state-wide probation system provided for by this article effective July 1, 1988, and shall be fully funded from state funds as part of the state-wide probation system beginning with fiscal year 1988-89. The employees of such county probation system, at their option, shall become employees of the department on the date said county system becomes a part of the state-wide probation system and, on or after said date, said employees shall be subject to the salary schedules and other personnel policies of the department, except that the salaries of such employees shall not be reduced as a result of becoming employees of the department.

(c) When an employee of a county probation system becomes an employee of the department pursuant to subsection (b) of this Code section at the same or a greater salary, the change in employment shall not constitute involuntary separation from service or termination of employment within the meaning of any local retirement or pension system

of which the employee was a member at the time of such change in employment, and the change in employment shall not entitle the employee to begin receiving any retirement or pension benefit whatsoever under any such local retirement or pension system.

~~(d) No leave time accrued by an employee of a county probation system shall be transferred when the employee becomes a state employee. Any leave time accrued by an employee of such county probation system shall be satisfied as a debt owed to the employee by the county.~~

~~42-8-43.3.~~

~~(a) This Code section shall apply to county probation systems, including state court adult probation systems, of each county having a population of 250,000 or more according to the United States decennial census of 1980 or any future such census, any provision of Code Section 42-8-43 to the contrary notwithstanding. The department shall participate in the cost of the county probation systems subject to this Code section for fiscal year 1988-89. For said fiscal year, the department shall pay to the governing authority of each county maintaining a county probation system subject to this Code section 10 percent of the annual county probation system budget as of the first day of said fiscal year. The funds necessary to participate in the cost of county probation systems under this subsection shall come from funds appropriated to the department for the purposes of providing state participation in the cost of county probation systems. The payments to counties provided for in this subsection shall be made by, or pursuant to the order of, the department in single lump sum payment for fiscal year 1988-89, with the payment being made by May 1, 1989. As a condition necessary for a county to qualify for department participation in the cost of the county's probation system, the county shall cause to be made an independent audit of the financial affairs and transactions of all funds and activities of the county probation system and agree to be responsible for any discrepancies, obligations, debts, or liabilities of such county probation system which may exist prior to the department's participation in the cost of the county's probation system. As a further condition necessary for a county to qualify for department participation in the cost of the county's probation system, the employees of such county probation systems shall be subject to the supervision, control, and direction of the department.~~

~~(b) The county probation system of any such county shall become a part of the state-wide probation system provided for by this article effective July 1, 1989, and shall be fully funded from state funds as part of the state-wide probation system beginning with fiscal year 1989-90. The employees of such county probation system, at their option, shall become employees of the department on the date said county system becomes a part of the state-wide probation system and, on or after said date, said employees shall be subject to~~

the salary schedules and other personnel policies of the department, except that the salaries of such employees shall not be reduced as a result of becoming employees of the department.

~~(c) When an employee of a county probation system becomes an employee of the department pursuant to subsection (b) of this Code section at the same or a greater salary, the change in employment shall not constitute involuntary separation from service or termination of employment within the meaning of any local retirement or pension system of which the employee was a member at the time of such change in employment, and the change in employment shall not entitle the employee to begin receiving any retirement or pension benefit whatsoever under any such local retirement or pension system.~~

~~(d) No leave time accrued by an employee of a county probation system shall be transferred when the employee becomes a state employee. Any leave time accrued by an employee of such county probation system shall be satisfied as a debt owed to the employee by the county.~~

42-8-44.

This article shall be liberally construed so that its purposes may be achieved."

#### **PART IV**

#### **PARDONS AND PAROLES**

#### **SECTION 4-1.**

Said Title 42 is further amended by revising Code Section 42-9-9, relating to board employees, as follows:

"42-9-9.

(a) The board may appoint such clerical, stenographic, supervisory, and expert assistants and may establish such qualifications for its employees as it deems necessary. In its discretion, the board may discharge such employees.

~~(b) A certified parole officer leaving the service of the board under honorable conditions who has accumulated 20 or more years of service with the board as a certified parole officer shall be entitled as part of such employee's compensation to retain his or her board issued badge. A certified parole officer employed with the board who is killed in the line of duty shall be entitled to have his or her board issued badge given to a surviving family member. Where a certified parole officer leaves the service of the board due to a disability that arose in the line of duty and such disability prevents the parole officer from further serving as a peace officer, then such disabled parole officer shall be entitled to retain his or her board issued badge regardless of the officer's number of years of service with the~~

1058 board. The board is authorized to promulgate rules and regulations for the implementation  
1059 of this subsection."

1060 **SECTION 4-2.**

1061 Said title is further amended by revising Code Section 42-9-20, relating to general duties of  
1062 the board, as follows:

1063 "42-9-20.

1064 In all cases in which the chairman of the board or any other member designated by the  
1065 board has suspended the execution of a death sentence to enable the full board to consider  
1066 and pass on same, it shall be mandatory that the board act within a period not exceeding  
1067 90 days from the date of the suspension order. In the cases which the board has power to  
1068 consider, the board shall be charged with the duty of determining which inmates serving  
1069 sentences imposed by a court of this state may be released on pardon or parole and fixing  
1070 the time and conditions thereof. The board shall ~~also~~ be charged with the duty of  
1071 ~~supervising all persons placed on parole, of determining violations thereof of parole and~~  
1072 ~~of taking action with reference thereto; and of making such investigations as may be~~  
1073 ~~necessary, and of aiding parolees or probationers in securing employment.~~ It shall be the  
1074 duty of the board personally to study the cases of those inmates whom the board has power  
1075 to consider so as to determine their ultimate fitness for such relief as the board has power  
1076 to grant. The board by an affirmative vote of a majority of its members shall have the  
1077 power to commute a sentence of death to one of life imprisonment."

1078 **SECTION 4-3.**

1079 Said title is further amended by revising Code Section 42-9-21, relating to supervision of  
1080 persons placed on parole or other conditional release, as follows:

1081 "42-9-21.

1082 ~~(a) The board shall have the function and responsibility of supervising all persons placed~~  
1083 ~~on parole or other conditional release by the board.~~

1084 ~~(b) The board is~~ shall be authorized to maintain and operate or to enter into memoranda  
1085 of agreement or other written documents evidencing contracts with other state agencies,  
1086 persons, or any other entities for transitional or intermediate or other services or for  
1087 programs deemed by the board to be necessary for parolees or others conditionally released  
1088 from imprisonment by order of the board and to require as a condition of relief that the  
1089 ~~offender parolee~~ pay directly to ~~the~~ any provider, including the board, a reasonable fee for  
1090 ~~said services or programs~~ transitional or intermediate or other services or for programs  
1091 deemed by the board to be necessary for parolees or conditional releasees.



1092 (c) ~~In all cases where restitution is applicable, the board shall collect during the parole~~  
1093 ~~period those sums determined to be owed to the victim."~~

1094 **SECTION 4-4.**

1095 Said title is further amended by repealing Code Section 42-9-22, relating to construction of  
1096 the chapter, which reads as follows:

1097 "42-9-22.

1098 This chapter shall be liberally construed so that its purpose may be achieved."

1099 **SECTION 4-5.**

1100 Said title is further amended by revising Code Section 42-9-41, relating to duty of the board  
1101 to obtain and place in records information respecting persons subject to relief or placed on  
1102 probation, as follows:

1103 "42-9-41.

1104 (a) It shall be the duty of the board to obtain and place in its permanent records  
1105 information as complete as may be practicable on every person who may become subject  
1106 to any relief which may be within the power of the board to grant. The information shall  
1107 be obtained as soon as possible after imposition of the sentence and shall include:

1108 (1) A complete statement of the crime for which the person is sentenced, the  
1109 circumstances of the crime, and the nature of the person's sentence;

1110 (2) The court in which the person was sentenced;

1111 (3) The term of his or her sentence;

1112 (4) The name of the presiding judge, the prosecuting officers, the investigating officers,  
1113 and the attorney for the person convicted;

1114 (5) A copy of presentence investigation and any previous court record;

1115 (6) A fingerprint record;

1116 (7) A copy of all probation reports which may have been made; and

1117 (8) Any social, physical, mental, or criminal record of the person.

1118 (b) The board in its discretion may also obtain and place in its permanent records similar  
1119 information on each person who may be placed on probation. The board shall immediately  
1120 examine such records and any other records obtained and make such other investigation  
1121 as it may deem necessary. It shall be the duty of the court and of all ~~probation officers~~  
1122 community supervision officers and other appropriate officers to furnish to the board, upon  
1123 its request, such information as may be in their possession or under their control. The  
1124 Department of Behavioral Health and Developmental Disabilities and all other state,  
1125 county, and city agencies, all sheriffs and their deputies, and all peace officers shall  
1126 cooperate with the board and shall aid and assist it in the performance of its duties. The

1127 board may make such rules as to the privacy or privilege of such information and as to its  
1128 use by persons other than the board and its staff as may be deemed expedient in the  
1129 performance of its duties."

1130 **SECTION 4-6.**

1131 Said title is further amended by revising subsection (d) of Code Section 42-9-42, relating to  
1132 procedure for granting relief from sentence, as follows:

1133 "(d)(1) Any person who is paroled shall be released on such terms and conditions as the  
1134 board shall prescribe. The board shall diligently see that no peonage is allowed in the  
1135 guise of parole relationship or supervision. The parolee shall remain in the legal custody  
1136 of the board until the expiration of the maximum term specified in his or her sentence or  
1137 until he or she is pardoned by the board.

1138 ~~(2) The board may require the payment of a parole supervision fee of at least \$10.00 per~~  
1139 ~~month as a condition of parole or other conditional release. The monthly amount shall~~  
1140 ~~be set by rule of the board and shall be uniform state wide. The board may require or the~~  
1141 ~~parolee or person under conditional release may request that up to 24 months of the~~  
1142 ~~supervision fee be paid in advance of the time to be spent on parole or conditional~~  
1143 ~~release. In such cases, any advance payments are nonreimbursable in the event of parole~~  
1144 ~~or conditional release revocation or if parole or conditional release is otherwise~~  
1145 ~~terminated prior to the expiration of the sentence being served on parole or conditional~~  
1146 ~~release. Such fees shall be collected by the board to be paid into the general fund of the~~  
1147 ~~state treasury."~~

1148 **SECTION 4-7.**

1149 Said title is further amended by revising subsection (a) of Code Section 42-9-44, relating to  
1150 specification of terms and conditions of parole, as follows:

1151 "(a) The board, upon placing a person on parole, shall specify in writing the terms and  
1152 conditions thereof. A certified copy of the conditions shall be given to the parolee and the  
1153 Department of Corrections. Thereafter, a copy shall be sent to the clerk of the court in  
1154 which the person was convicted. The board shall adopt general rules concerning the terms  
1155 and conditions of parole and concerning what shall constitute a violation thereof and shall  
1156 make special rules to govern particular cases. The rules, both general and special, may  
1157 include, among other things, a requirement that the parolee shall not leave this state or any  
1158 definite area in this state without the consent of the board; that the parolee shall contribute  
1159 to the support of his or her dependents to the best of the parolee's ability; that the parolee  
1160 shall make reparation or restitution for his or her crime; that the parolee shall abandon evil  
1161 associates and ways; and that the parolee shall carry out the instructions of his or her ~~parole~~

1162 ~~supervisor~~ community supervision officer, and, in general, so comport himself or herself  
1163 as the parolee's ~~supervisor~~ community supervision officer shall determine. A violation of  
1164 the terms of parole may render the parolee liable to arrest and a return to a penal institution  
1165 to serve out the term for which the parolee was sentenced."

1166 **SECTION 4-8.**

1167 Said title is further amended by repealing subsection (d) of Code Section 42-9-48, relating  
1168 to arrest of parolee or conditional release violator, which reads as follows:

1169 "(d) Any parole supervisor, when he has reasonable ground to believe that a parolee or  
1170 conditional releasee has violated the terms or conditions of his parole or conditional release  
1171 in a material respect, shall notify the board or some member thereof; and proceedings shall  
1172 thereupon be had as provided in this Code section."

1173 **SECTION 4-9.**

1174 Said title is further amended by revising Code Section 42-9-57, relating to effect of chapter  
1175 on probation power of courts, as follows:

1176 "42-9-57.

1177 Nothing contained in this chapter shall be construed as repealing any power given to any  
1178 court of this state to place offenders on probation or to supervise the same nor any power  
1179 of any probation agency set up in any county of the state in conjunction with the courts.  
1180 The board shall be authorized to cooperate with any such agencies, except that it shall not  
1181 assume or pay any financial obligations thereof. ~~The board shall also be authorized to~~  
1182 ~~cooperate with the courts for the probation of offenders in those counties in which there is~~  
1183 ~~no existing probation agency, when a court so requests."~~

1184 **SECTION 4-10.**

1185 Said title is further amended by revising subsection (b) of Code Section 42-9-90, relating to  
1186 application fee required for transfer, as follows:

1187 "(b) The Department of Corrections and the State Board of Pardons and Paroles are  
1188 authorized to require any nonindigent adult offender to pay a \$25.00 application fee when  
1189 applying to transfer his or her supervision from Georgia to any other state or territory  
1190 pursuant to the provisions of ~~Articles 3 and~~ Article 4 of this chapter."

**PART V****CROSS-REFERENCES****SECTION 5-1.**

Code Section 15-11-84 of the Official Code of Georgia Annotated, relating to sharing of confidential information, is amended by revising subsection (b) as follows:

"(b) Governmental entities, state, county, consolidate governments, or municipal government departments, boards, or agencies shall exchange with each other all information not held as confidential pursuant to federal law and relating to a child which may aid a governmental entity in the assessment, treatment, intervention, or rehabilitation of a child, notwithstanding Code Section 15-1-15, 15-11-9.1, subsection (d) of Code Section 15-11-10, Code Section 15-11-66.1, 15-11-75, 15-11-81, 15-11-82, 15-11-174, 20-2-751.2, 20-14-40, 24-9-40.1, 24-9-41, 24-9-42, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, ~~42-8-40~~, 42-8-106, 42-9A-3, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve the best interest of the child. Information which is shared pursuant to this subsection shall not be utilized to assist in the prosecution of the child in juvenile court or superior court or utilized to the detriment of the child."

**SECTION 5-2.**

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising subsection (b) of Code Section 16-6-5.1, relating to sexual assault against persons in custody, as follows:

"(b) A ~~probation or parole~~ community supervision officer or other custodian or supervisor of another person referred to in this Code section commits sexual assault when he or she engages in sexual contact with another person who is a probationer or parolee under the supervision of ~~said probation or parole~~ such community supervision officer or who is in the custody of law or who is enrolled in a school or who is detained in or is a patient in a hospital or other institution and such actor has supervisory or disciplinary authority over such other person. A person convicted of sexual assault shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that any person convicted of the offense of sexual assault under this subsection of a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this subsection of the offense of sexual assault shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2."

**SECTION 5-3.**

Said title is further amended by revising subsection (b) of Code Section 16-10-24, relating to obstructing or hindering law enforcement officers, as follows:

"(b) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement officer, prison guard, correctional officer, ~~probation supervisor, parole supervisor~~ community supervision officer, or conservation ranger in the lawful discharge of his or her official duties by offering or doing violence to the person of such officer or legally authorized person ~~is~~ shall be guilty of a felony and shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years."

**SECTION 5-4.**

Said title is further amended by revising subsection (d) of Code Section 16-11-37, relating to terroristic threats or acts, as follows:

"(d) A person who commits or attempts to commit a terroristic threat or act with the intent to retaliate against any person for:

(1) Attending a judicial or administrative proceeding as a witness, attorney, judge, or party or producing any record, document, or other object in a judicial or official proceeding; or

(2) Providing to a law enforcement officer, ~~adult or juvenile probation officer,~~ community supervision officer, prosecuting attorney, or judge any information relating to the commission or possible commission of an offense under the laws of this state or of the United States or a violation of conditions of bail, pretrial release, probation, or parole

shall be guilty of the offense of a terroristic threat or act and, upon conviction thereof, shall be punished, for a terroristic threat, by imprisonment for not less than five nor more than ten years or by a fine of not less than \$50,000.00, or both, and, for a terroristic act, by imprisonment for not less than five nor more than 20 years or by a fine of not less than \$100,000.00, or both."

**SECTION 5-5.**

Said title is further amended by revising paragraph (12) of subsection (c) of Code Section 16-11-127.1, relating to carrying weapons within school safety zones, at school functions, or on school property, as follows:

"(12) ~~Probation supervisors~~ Community supervision officers employed by ~~and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42,~~ ~~known as the 'State-wide Probation Act,'~~ when specifically designated and authorized in writing by the director of the ~~Division of Probation~~ Division of Community Supervision,"

**SECTION 5-6.**

Said title is further amended by revising paragraph (9) of subsection (a) and subsection (b) of Code Section 16-11-130, relating to exemptions from Code Sections 16-11-126 through 16-11-128, as follows:

"(9) ~~Chief probation officers, probation officers, intensive probation officers, and surveillance officers~~ Community supervision officers employed by ~~and under the authority of the Department of Corrections pursuant to Article 2 of Chapter 8 of Title 42, known as the 'State-wide Probation Act,'~~ when specifically designated and authorized in writing by the director of ~~Division of Probation~~ the Division of Community Supervision;"

"(b) Code Sections 16-11-126 through 16-11-128 shall not apply to or affect persons who at the time of their retirement from service with the Department of Corrections were ~~chief probation officers, probation officers, intensive probation officers, or surveillance~~ community supervision officers, when specifically designated and authorized in writing by the director of ~~Division of Probation~~ the Division of Community Supervision."

**SECTION 5-7.**

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by revising subsection (d) of Code Section 17-6-1.1, relating to electronic pretrial release and monitoring program for defendants, as follows:

"(d) A defendant may not be released to, or remain in, an electronic pretrial release and monitoring program who has any other outstanding warrants, accusations, indictments, holds, or incarceration orders from any other court, law enforcement agency, or ~~probation or parole~~ community supervision officer that require the posting of bond or further adjudication."

**SECTION 5-8.**

Said title is further amended by revising Code Section 17-14-8, relating to apportionment of payments for fines and restitution, as follows:

"17-14-8.

(a) In any case in which a court sentences an offender to pay restitution and a fine, if the court permits the offender to pay such restitution and fine in other than a lump sum, the clerk of any superior court of this state, ~~probation officer or parole~~ community supervision officer, or other official who receives such partial payments shall apply not less than one-half of each payment to the restitution before paying any portion of such fine or any forfeitures, costs, fees, or surcharges provided for by law to any agency, department, commission, committee, authority, board, or bureau of state or local government.

1293 (b) The clerk of any court of this state, ~~probation officer or parole~~ community supervision  
1294 officer, or other official who receives partial payments for restitution shall pay the  
1295 restitution amount to the victim as provided in the restitution order not later than the last  
1296 day of each month, provided that the amount exceeds \$100.00. If the amount does not  
1297 exceed \$100.00, the clerk of any court of this state, ~~probation officer or parole~~ community  
1298 supervision officer, or other official may allow the amount of restitution to accumulate  
1299 until such time as it exceeds \$100.00 or until the end of the next calendar quarter,  
1300 whichever occurs first."

#### 1301 SECTION 5-9.

1302 Said title is further amended by revising subsection (c) of Code Section 17-14-14, relating  
1303 to restitution payments, as follows:

1304 "(c) Until such time as the restitution has been paid or the sentence has been completed,  
1305 the clerk of court or the ~~probation or parole~~ community supervision officer assigned to the  
1306 case, whoever is responsible for collecting restitution, shall review the case not less  
1307 frequently than twice yearly to ensure that restitution is being paid as ordered. If the  
1308 restitution was ordered to be made within a specific period of time, the case shall be  
1309 reviewed at the end of the specific period of time to determine if the restitution has been  
1310 paid in full. The final review shall be conducted before the sentence or probationary or  
1311 parole period expires. If it is determined at any review that restitution is not being paid as  
1312 ordered, a written report of the violation shall be filed with the court on a form prescribed  
1313 by the Council of Superior Court Clerks of Georgia."

#### 1314 SECTION 5-10.

1315 Code Section 19-13-51 of the Official Code of Georgia Annotated, relating to definitions for  
1316 the "Family Violence and Stalking Protective Order Registry Act," is amended by revising  
1317 paragraph (4) as follows:

1318 "(4) 'Law enforcement officer' means any agent or officer of this state, or a political  
1319 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested  
1320 either expressly by law or by virtue of public employment or service with authority to  
1321 enforce the criminal or traffic laws and whose duties include the preservation of public  
1322 order, the protection of life and property, or the prevention, detection, or investigation of  
1323 crime. Such term also includes the following: state or local officer, sheriff, deputy  
1324 sheriff, dispatcher, 9-1-1 operator, police officer, prosecuting attorney, member of the  
1325 State Board of Pardons and Paroles, a hearing officer ~~and parole officer~~ of the State  
1326 Board of Pardons and Paroles, and a ~~probation~~ community service officer of the  
1327 Department of Corrections."

**SECTION 5-11.**

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended by revising subsections (b) and (g) of Code Section 35-3-36, relating to duties of state criminal justice agencies as to submission of fingerprints, photographs, and other identifying data to Georgia Crime Information Center, as follows:

"(b) It shall be the duty of all chiefs of police, sheriffs, prosecuting attorneys, courts, judges, ~~parole and probation~~ community supervision officers, wardens, or other persons in charge of penal and correctional institutions in this state to furnish the center with any other data deemed necessary by the center to carry out its responsibilities under this article."

"(g) All persons in charge of law enforcement agencies, all clerks of court, all municipal judges where they have no clerks, all magistrates, and all persons in charge of ~~state and county probation and parole~~ community supervision offices shall supply the center with the information described in Code Section 35-3-33 on the basis of the forms and instructions to be supplied by the center."

**SECTION 5-12.**

Code Section 40-5-83 of the Official Code of Georgia Annotated, relating to establishment and approval of driver improvement clinics and programs, is amended by revising subsection (d) as follows:

"(d) Notwithstanding the provisions of any law or rule or regulation which prohibits any individual who is a ~~probation~~ community supervision officer or other official or employee of the ~~probation~~ community supervision division of the Department of Corrections or a spouse of such individual from owning, operating, instructing at, or being employed by a driver improvement clinic, any individual who is a ~~probation~~ community supervision officer or other official or employee of the ~~probation~~ community supervision division of the Department of Corrections or a spouse of such individual who owns, operates, instructs at, or is employed by a driver improvement clinic on June 1, 1985, and who in all respects is and remains qualified to own, operate, instruct at, or be employed by a driver improvement clinic is expressly authorized to continue on and after June 1, 1985, to engage in such activities. No person who owns, operates, or is employed by a private company which has contracted to provide probation services for misdemeanor cases shall be authorized to own, operate, be an instructor at, or be employed by a driver improvement clinic or a DUI Alcohol or Drug Use Risk Reduction Program."

**SECTION 5-13.**

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by revising Code Section 42-1-10, relating to preliminary urine screen drug tests, as follows:



"42-1-10.

(a) Any ~~probation~~ community supervision officer, ~~parole~~ private probation officer as such term is defined in Code Section 42-8-100, or ~~other~~ an official or employee of the Department of Corrections who supervises any person covered under the provisions of paragraphs (1) through (7) of this subsection shall be exempt from the provisions of Chapter 22 of Title 31 for the limited purposes of administering a preliminary urine screen drug test to any person who is:

(1) Incarcerated;

(2) Released as a condition of probation for a felony or misdemeanor;

(3) Released as a condition of conditional release;

(4) Released as a condition of parole;

(5) Released as a condition of provisional release;

(6) Released as a condition of pretrial release; or

(7) Released as a condition of control release.

(b) The Department of Corrections and the State Board of Pardons and Paroles shall develop a procedure for the performance of preliminary urine screen drug tests in accordance with the manufacturer's standards for certification. ~~Probation officers, parole~~ Community supervision officers, private probation officers as such term is defined in Code Section 42-8-100, or ~~other~~ officials or employees of the Department of Corrections who are supervisors of any person covered under paragraphs (1) through (7) of subsection (a) of this Code section shall be authorized to perform preliminary urine screen drug tests in accordance with such procedure. Such procedure shall include instructions as to a confirmatory test by a licensed clinical laboratory where necessary."

#### **SECTION 5-14.**

Said title is further amended by revising subparagraph (a)(2)(A) of Code Section 42-1-12, relating to the State Sexual Offender Registry, as follows:

"(A) With respect to a sexual offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, the Division of ~~Probation~~ Community Supervision of the Department of Corrections;"

#### **SECTION 5-15.**

Said title is further amended by revising paragraphs (4) and (5) of subsection (e) of Code Section 42-8-101, relating to the County and Municipal Probation Advisory Council, as follows:

1397       “(4) To promulgate rules and regulations establishing a 40 hour initial orientation for  
1398 newly hired private probation officers and for 20 hours per annum of continuing  
1399 education for private probation officers, provided that the 40 hour initial orientation shall  
1400 not be required of any person who has successfully completed a ~~probation or parole~~  
1401 community supervision officer basic course of training certified by the Georgia Peace  
1402 Officer Standards and Training Council or any private probation officer who has been  
1403 employed by a private probation corporation, enterprise, or agency for at least six months  
1404 as of July 1, 1996;

1405       (5) To promulgate rules and regulations establishing a 40 hour initial orientation for  
1406 probation officers employed by a county, municipality, or consolidated government that  
1407 has established probation services and for 20 hours per annum of continuing education  
1408 for such probation officers, provided that the 40 hour initial orientation shall not be  
1409 required of any person who has successfully completed a ~~probation or parole~~ community  
1410 supervision officer basic course of training certified by the Georgia Peace Officer  
1411 Standards and Training Council or any probation officer who has been employed by a  
1412 county, municipality, or consolidated government as of March 1, 2006;”

1413                                   **SECTION 5-16.**

1414 Said title is further amended by revising subsection (a) of Code Section 42-8-102, relating  
1415 to uniform professional standards and uniform contract standards, as follows:

1416       “(a) The uniform professional standards contained in this subsection shall be met by any  
1417 person employed as and using the title of a private probation officer or probation officer.  
1418 Any such person shall be at least 21 years of age at the time of appointment to the position  
1419 of private probation officer or probation officer and must have completed a standard  
1420 two-year college course or have four years of law enforcement experience; provided,  
1421 however, that any person employed as a private probation officer as of July 1, 1996, and  
1422 who had at least six months of experience as a private probation officer or any person  
1423 employed as a probation officer by a county, municipality, or consolidated government as  
1424 of March 1, 2006, shall be exempt from such college requirements. Every private  
1425 probation officer shall receive an initial 40 hours of orientation upon employment and shall  
1426 receive 20 hours of continuing education per annum as approved by the council, provided  
1427 that the 40 hour initial orientation shall not be required of any person who has successfully  
1428 completed a ~~probation or parole~~ community supervision officer basic course of training  
1429 certified by the Peace Officer Standards and Training Council or any private probation  
1430 officer who has been employed by a private probation corporation, enterprise, or agency  
1431 for at least six months as of July 1, 1996, or any person employed as a probation officer by  
1432 a county, municipality, or consolidated government as of March 1, 2006. In no event shall

1433 any person convicted of a felony be employed as a probation officer or utilize the title of  
1434 probation officer."

1435 **SECTION 5-17.**

1436 Code Section 45-9-81 of the Official Code of Georgia Annotated, relating to definitions for  
1437 the Georgia State Indemnification Fund, is amended by revising paragraph (10) as follows:

1438 "(10) 'Prison guard' means any person employed by the state or any political subdivision  
1439 thereof whose principal duties relate to the supervision and incarceration of persons  
1440 accused or convicted of the violation of the criminal laws of this state or any political  
1441 subdivision thereof. Such term shall also mean any ~~probation supervisor or parole~~  
1442 community supervision officer who is required to be certified under Chapter 8 of Title  
1443 35, the 'Georgia Peace Officer Standards and Training Act,' and whose principal duties  
1444 directly relate to the supervision of adult probationers or adult parolees. Such term also  
1445 means any person employed by the state or any political subdivision thereof whose  
1446 principal duties include the supervision of youth who are charged with or adjudicated for  
1447 an act which if committed by adults would be considered a crime."

1448 **SECTION 5-18.**

1449 Code Section 49-4A-8 of the Official Code of Georgia Annotated, relating to commitment  
1450 of delinquent or unruly children, is amended by revising paragraph (1) of subsection (i) as  
1451 follows:

1452 "(i)(1) A child who has been committed to the department as a delinquent or unruly child  
1453 for detention in a youth development center or who has been otherwise taken into custody  
1454 and who has escaped therefrom or who has been placed under supervision and broken the  
1455 conditions thereof may be taken into custody without a warrant by a sheriff, deputy  
1456 sheriff, constable, police officer, ~~probation officer, parole~~ community supervision officer,  
1457 or any other officer of this state authorized to serve criminal process, upon a written  
1458 request made by an employee of the department having knowledge of the escape or of the  
1459 violation of conditions of supervision. Before a child may be taken into custody for  
1460 violation of the conditions of supervision, the written request mentioned above must be  
1461 reviewed by the commissioner or his or her designee. If the commissioner or his or her  
1462 designee finds that probable cause exists to believe that the child has violated his or her  
1463 conditions of supervision, ~~he~~ the commissioner or his or her designee may issue an order  
1464 directing that the child be picked up and returned to custody."

**SECTION 5-19.**

Code Section 15-1-15, relating to drug court divisions, is amended by replacing "probation officers" with "community supervision officers" wherever such term occurs.

**SECTION 5-20.**

The Official Code of Georgia Annotated is amended by replacing "probation officer" with "community supervision officer" wherever such term occurs in:

- (1) Code Section 16-10-33, relating to removal or attempted removal of weapon from public official;
- (2) Code Section 17-10-9.1, relating to voluntary surrender to county jail or correctional institution;
- (3) Code Section 19-7-52, relating to whom child support payments are made;
- (4) Code Section 19-11-21, relating to payment of support to the Department of Human Services;
- (5) Code Section 40-5-81, relating to driver improvement programs optional;
- (6) Code Section 42-8-112, relating to proof of compliance required for reinstatement of certain drivers' licenses and for obtaining probationary license;
- (7) Code Section 42-8-114, relating to specifying provider for ignition interlock device;
- (8) Code Section 42-8-151, relating to definitions in the "Probation Management Act";
- (9) Code Section 43-12A-5, relating to ignition interlock device provider not to operate under any name deceptively similar to another business; and
- (10) Code Section 49-3-6, relating to functions of county department of family and children services.

**SECTION 5-21.**

The Official Code of Georgia Annotated is amended by replacing "chief probation officer" with "chief community supervision officer" wherever such term occurs in:

- (1) Code Section 42-8-151, relating to definitions in the "Probation Management Act"; and
- (2) Code Section 42-8-155, relating to penalty for probation violation.

**SECTION 5-22.**

Code Section 42-8-72 of the Official Code of Georgia Annotated, relating to community service as a condition of probation, is amended by replacing "probation supervisor" with "community supervision officer" wherever such term occurs.

**SECTION 5-23.**

1497

1498 Code Section 16-10-33 of the Official Code of Georgia Annotated, relating to removal or  
1499 attempted removal of weapon from public official, is amended by replacing "parole  
1500 supervisor" with "community supervision officer" wherever such term occurs.

**PART VI**

1501

**EFFECTIVE DATE AND REPEALER**

1502

**SECTION 6-1.**

1503

1504 This Act shall become effective on July 1, 2010.

**SECTION 6-2.**

1505

1506 All laws and parts of laws in conflict with this Act are repealed.